

SENATE BILL

No. 33

Introduced by Senator Hancock

February 5, 2010

An act to amend the heading of Article 1 (commencing with Section 12000) of Chapter 1 of Part 8 of Division 1 of Title 1 of, and to add Section 12001.5 to, the Education Code, relating to education finance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 33, as introduced, Hancock. Education finance: federal tax credit bond volume cap.

Existing federal law authorizes the Internal Revenue Service to publish the maximum face value amount of qualified school construction bonds, as defined, that may be allocated by the United States Department of the Treasury to each state pursuant to the federal American Recovery and Reinvestment Act of 2009.

This bill would assign specified amounts of the state's 2009 federal tax credit bond volume cap to the State Department of Education and the California School Finance Authority. The bill would exempt the assignment and distribution of the federal tax credit bond volume cap under the bill from the rulemaking provisions of the Administrative Procedure Act.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The heading of Article 1 (commencing with Section 12000) of Chapter 1 of Part 8 of Division 1 of Title 1 of the Education Code is amended to read:

Article 1. ~~No Agency Designated Allocation of Federal Funds~~
and Federal Tax Credit Bond Volume Cap

SEC. 2. Section 12001.5 is added to the Education Code, to read:

12001.5. (a) The Legislature hereby finds and declares that the federal tax credit bond volume cap for qualified school construction bonds designated for the state by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), together with Internal Revenue Service Notice 2009-35 issued pursuant thereto, does not constitute federal moneys, federal funds, or funds of any kind for any purpose under this code.

(b) There is hereby assigned to the State Department of Education, seven hundred million dollars (\$700,000,000) of the state's 2009 federal tax credit bond volume cap for qualified school construction bonds, to be further assigned and distributed to or for the benefit of school districts and county offices of education in the state, as the State Department of Education shall determine.

(c) There is hereby assigned to the California School Finance Authority, established pursuant to Section 17172, seventy-three million five hundred twenty-five thousand dollars (\$73,525,000) of the state's 2009 federal tax credit bond volume cap for qualified school construction bonds, to be issued for the benefit of charter schools, or to be further assigned and distributed to one or more issuers in the state for the benefit of charter schools, as the authority shall determine.

(d) (1) Any of the state's 2009 federal tax credit bond volume cap for qualified school construction bonds assigned to the State Department of Education pursuant to subdivision (b) that has not resulted in the issuance of qualified school construction bonds by December 31, 2009, shall be added to the state's volume cap for 2010, in accordance with subsection (e) of Section 54F of the Internal Revenue Code, and assigned as set forth in this section. Those districts and county offices of education that received an

assignment from the State Department of Education by December 31, 2009, and notification from the State Department of Education that they were granted an extension to issue bonds through March 31, 2010, shall have an additional 120 days from the effective date of this legislation to issue bonds.

(2) Any of the state's federal tax credit bond volume cap for qualified school construction bonds originally assigned to the State Department of Education in 2009 pursuant to subdivision (b) that does not result in the issuance of qualified school construction bonds within 120 days from the effective date of this legislation shall revert to the state, and shall be reallocated in accordance with the process established pursuant to state law for allocating the 2010 federal tax credit bond volume cap for qualified school construction bonds.

(3) The department shall reassign to a school district any 2009 federal tax credit bond volume cap for qualified school construction bonds that was directly allocated by Internal Revenue Service Notice 2009-35 to the school district, did not result in the issuance of qualified school construction bonds by December 31, 2009, and was reallocated by the school district to the state no later than 30 days after the effective date of this section. The department shall grant the school district 120 days from the effective date of this section to issue the qualified school construction bonds. Any of the state's federal tax credit bond volume cap for qualified school construction bonds assigned to a school district described in this paragraph that does not result in the issuance of qualified school construction bonds within 120 days from the effective date of this section shall revert to the state and shall be reallocated by the department in accordance with the process established pursuant to state law for allocating the 2010 federal tax credit bond volume cap for qualified school construction bonds.

(e) (1) Any of the state's 2009 federal tax credit bond volume cap for qualified school construction bonds assigned to the California School Finance Authority pursuant to subdivision (c) that has not resulted in the issuance of qualified school construction bonds by December 31, 2009, shall be added to the state's volume cap for 2010, in accordance with subsection (e) of Section 54F of the Internal Revenue Code, and allocated as set forth in this section. Any charter school that received an allocation from the California School Finance Authority prior to December 31, 2009, shall retain

1 its allocation pursuant to the resolution of the California School
2 Finance Authority.

3 (2) Any of the state's federal tax credit bond volume cap for
4 qualified school construction bonds originally allocated to the
5 California School Finance Authority in 2009 pursuant to
6 subdivision (c) that does not result in the issuance of qualified
7 school construction bonds by December 31, 2010, shall be retained
8 by the California School Finance Authority, and reallocated in
9 accordance with the qualified school construction bond parameters
10 established by the California School Finance Authority. All
11 parameters and conditions for receipt of tax credits under the
12 federal tax credit bond volume cap shall be in accordance with
13 Article 12 (commencing with Section 17078.52) of Chapter 12.5
14 of Part 10, the Charter Schools Act of 1992, and any regulations
15 promulgated pursuant to those statutory provisions.

16 (f) Notwithstanding any other provision of law, in order to
17 further the purposes of the federal American Recovery and
18 Reinvestment Act of 2009, and allow school districts to issue
19 federal tax credit bonds as expeditiously as possible, the assignment
20 and distribution of the federal tax credit bond volume cap by the
21 State Department of Education and the California School Finance
22 Authority under this section are exempt from the rulemaking
23 provisions of the Administrative Procedure Act (Chapter 3.5
24 (commencing with Section 11340) of Part 1 of Division 3 of Title
25 2 of the Government Code).

26 (g) It is the intent of the Legislature that the parameters and
27 conditions adopted by the department and the California School
28 Finance Authority be comparable where practical and applicable
29 in order to ensure consistency and equity in the state level
30 assignment and distribution of the federal tax credit bond volume
31 cap, including, but not limited to, maximum tax credit amounts
32 per project or school district.

33 SEC. 3. This act is an urgency statute necessary for the
34 immediate preservation of the public peace, health, or safety within
35 the meaning of Article IV of the Constitution and shall go into
36 immediate effect. The facts constituting the necessity are:

1 In order to access federal stimulus tax credits at the earliest
2 possible opportunity, it is necessary that this act take effect
3 immediately.

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